

(Translated from Russian)

Information from Belarus in response to questions from the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on human rights defenders of the United Nations Human Rights Council

(a) Mr. O.K. Volchek

On 17 February 2017, in violation of the established procedure for holding mass events, Mr. O.K. Volchek took an active part in a rally at 9 Sovetskaya Street, Minsk that had not been authorized by the Minsk municipal executive committee, with the intention of publicly protesting against Presidential Decree No. 3 of 2 April 2015 on the Prevention of Social Dependency (hereinafter referred to as Decree No. 3). During these events, Mr. Volchek shouted slogans; he did not have any standing as a “human rights defender” or “observer”. Administrative charges were brought against him for these actions under article 23.34 of the Code of Administrative Offences. Mr. Volchek has not submitted any appeal to the law enforcement agencies regarding his detention.

In a ruling of 21 March 2017, a judge of the Frunzensky District Court in Minsk found Mr. Volchek guilty of an administrative offence under article 23.34, paragraph 1, of the Code of Administrative Offences, namely, violation of the established procedure for holding mass events by a participant in such events, on the basis of which he was sentenced to an administrative penalty in the form of administrative detention for 13 (thirteen) days.

Mr. Volchek appealed against the legality and validity of the judge’s ruling, which had yet to come into force. The appeal was considered by the Minsk Municipal Court, which overturned the ruling of the Frunzensky District Court on 31 March 2017. The case was returned to the District Court to be heard again by a different judge.

On 2 May 2017, a judge of the Frunzensky District Court once more sentenced Mr. Volchek to the same penalty, as the court found him guilty of an administrative offence on the basis of the evidence collected and investigated in the case, including witness statements and video recordings.

Mr. Volchek did not appeal to the Minsk Municipal Court against the Frunzensky District Court’s ruling of 2 May before it came into force.

Now that the ruling of 2 May against Mr. Volchek has come into force, it may be reconsidered if he appeals to the prosecution services under article 12.11, paragraph 1, of the Code of Administrative Procedure and Enforcement, and the public prosecutor intervenes.

(b) Mr. P.I. Levinov

On 26 March 2017, Mr. P.I. Levinov took an active part in a gathering on Pobeda Square in Vitsyebsk which was held in violation of the established procedure (without permission from the local executive and administrative authorities) with the aim of publicly discussing Decree No. 3. During this gathering, Mr. Levinov talked to other participants and argued with representatives of the authorities and law enforcement agencies who had informed him that the mass events being held were unlawful. His actions are confirmed by relevant video recordings and other evidence. By so doing when his official activity was as an observer for the Belarusian Helsinki Committee and he had identification as a freelance correspondent for the Vitsyebsky Kuryer [Vitsyebsk courier] (Russia), Mr. Levinov exceeded the bounds of “observing the conduct of mass events” and “engaging in journalism”.

In a ruling of 17 April 2017, a judge of the Oktyabrsky District Court in Vitsyebsk found Mr. Levinov guilty of an administrative offence under article 23.34, paragraph 1, of the Code of Administrative Offences, namely, violation of the established procedure for



holding mass events by a participant in such events, on the basis of which he was sentenced to an administrative penalty in the form of administrative detention for 15 (fifteen) days. The Oktyabrsky District Court found Mr. Levinov guilty of the offence provided for in article 23.34, paragraph 1, of the Code on the basis of the evidence collected and investigated in the case. His arguments that he had the status of an “observer” and “journalist” were held to be untenable, as the evidence clearly demonstrated that he had committed the offence in question and his actions were clearly unlawful. Moreover, Mr. Levinov held no accreditation as a journalist for a foreign media publication.

Mr. Levinov’s appeal against the legality and validity of the Oktyabrsky District Court’s ruling of 17 April 2017 was considered by the Vitsyebk Provincial Court. On 28 April 2017, the latter court upheld the ruling of the Oktyabrsky District Court, dismissing Mr. Levinov’s appeal.

The ruling of the Oktyabrsky District Court of 17 April against Mr. Levinov came into force on 28 April 2017.

Mr. Levinov has lodged the corresponding appeals against the rulings of 17 and 28 April 2017 with the president of the Vitsyebk Provincial Court.

(c) Mr. E.N. Balanchuk

On 10 March 2017, Mr. E.N. Balanchuk took an active part in a rally in Maladzyechna, which was held on the main square and in violation of the established procedure (without permission from the local executive and administrative authorities), with the aim of publicly protesting against Decree No. 3. During this action, Mr. Balanchuk, together with the organizers of the event, took the podium and spoke to the assembled crowd through a loudspeaker, proffering various slogans. As a result he was charged with an administrative offence under article 23.34 of the Code of Administrative Offences. Witness statements and video recordings were used as evidence that he had committed the offence. Mr. Balanchuk has not appealed to the law enforcement agencies against his arrest.

In a ruling of 28 March 2017, a judge of the Maladzyechna District Court, Minsk province, found Mr. Balanchuk guilty of an administrative offence under article 23.34, paragraph 1, of the Code of Administrative Offences, namely, violation of the established procedure for holding mass events by a participant in such events. As a result, he was sentenced to an administrative penalty in the form of administrative detention for 15 (fifteen) days.

The court found Mr. Balanchuk’s arguments, which he based on an authorization dated 4 April 2017, that he represented the interests of the Belarusian Helsinki Committee and was monitoring compliance with human rights treaties by the Republic of Belarus, including in the conduct of mass events, to be untenable and intended solely to absolve him of responsibility.

Mr. Balanchuk’s appeal against the legality and validity of the judge’s ruling, which had yet to come into force, was considered by the Minsk Provincial Court. On 6 April 2017, the latter court upheld the ruling of the Maladzyechna District Court, dismissing Mr. Balanchuk’s appeal.

The ruling of the Maladzyechna District Court of 28 March 2017 against Mr. Balanchuk came into force on 6 April 2017.

Mr. Balanchuk is entitled to lodge an appeal against the ruling with the president of the Minsk Provincial Court or the President of the Supreme Court within the period specified in article 12.11, paragraph 3, of the Code of Administrative Procedure and Enforcement, which so far he has not done.

(d) Mr. A.V. Poplavnyi

On 17 February 2017 Mr. A.V. Poplavnyi, in violation of the established procedure for holding mass events, and having not identified himself in any way as a “human rights defender” or “observer”, took an active part in a rally on Vosstanie Square and in a march along Sovetskaya Street and through Lenin Square in Homiel, the holding of which had not been authorized by the Homiel municipal executive committee, with the aim of “drawing

public attention to the issues of forced labour, the unlawful persecution of non-working citizens, and the discriminatory and anticonstitutional nature” of Decree No. 3. Mr. Poplavnyi addressed the crowd through a loudspeaker, as confirmed by relevant video recordings and other evidence in the case. As a result, he was charged with an administrative offence under article 23.34 of the Code of Administrative Offences. During the administrative proceedings, Mr. Poplavnyi did not file any petition or appeal.

In a ruling of 17 March 2017, a judge of the Central District Court in Homiel found Mr. Poplavnyi guilty of an administrative offence under article 23.34, paragraph 1, of the Code of Administrative Offences, namely, violation of the established procedure for holding mass events by a participant in such events, on the basis of which he was sentenced to an administrative penalty in the form of administrative detention for 10 (ten) days.

The procedure for appealing against a ruling that has yet to come into force and concerns an administrative offence is set out in articles 12.1 to 12.3 of the Code of Administrative Procedure and Enforcement.

Mr. Poplavnyi’s appeal against the legality and validity of the judge’s ruling, which had yet to come into force. The appeal was considered by the Homiel Provincial Court. On 29 March 2017, the latter court upheld the ruling of the Central District Court, dismissing Mr. Poplavnyi’s appeal.

The ruling of the Central District Court of 17 March 2017 against Mr. Poplavnyi came into force on 29 March 2017.

Mr. Poplavnyi is entitled to lodge an appeal against the ruling with the president of the Homiel Provincial Court or the President of the Supreme Court within the period specified in article 12.11, paragraph 3, of the Code of Administrative Procedure and Enforcement, which so far he has not done.

(e) Mr. L.L. Sudalenko

On 17 February Mr. L.L. Sudalenko, in violation of the established procedure for holding mass events, and having not identified himself in any way as a “human rights defender” or “observer”, took an active part in a rally on Vosstanie Square and in a march along Sovetskaya Street and through Lenin Square in Homiel, the holding of which had been forbidden by the Homiel municipal executive committee, with the aim of “drawing public attention to the issues of forced labour, the unlawful persecution of non-working citizens, and the discriminatory and anticonstitutional nature” of Decree No. 3. Mr. Sudalenko headed the march, as is confirmed by relevant video recordings and other evidence in the case. As a result, he was charged with administrative offences under article 23.34 of the Code of Administrative Offences. During the administrative proceedings, Mr. Sudalenko did not file any petition or appeal.

In a ruling of 17 March 2017, a judge of the Central District Court in Homiel found Mr. Sudalenko guilty of an administrative offence under article 23.34, paragraph 1, of the Code of Administrative Offences, namely, violation of the established procedure for holding mass events by a participant in such events, on the basis of which he was issued with an administrative penalty in the form of a caution.

Mr. Sudalenko’s appeal against the legality and validity of the judge’s ruling, which had yet to come into force, was considered by the Homiel Provincial Court. On 14 April 2017, the latter court upheld the ruling of the Central District Court, dismissing Mr. Sudalenko’s appeal.

The ruling of the Central District Court of 17 March 2017 against Mr. Sudalenko came into force on 14 April 2017.

Mr. Sudalenko is entitled to lodge an appeal against the ruling with the president of the Homiel Provincial Court or the President of the Supreme Court within the period specified in article 12.11, paragraph 3, of the Code of Administrative Procedure and Enforcement, which so far he has not done.

(f) On 25 March 2017, the central department for internal affairs of the Minsk municipal executive committee received information to the effect that, at [REDACTED]

████████████████████, more than 50 suspicious citizens had assembled, including some with their faces covered. When this information was investigated, it was established that 55 people had been in the flat, discussing the action they were planning to take during forthcoming mass events. Once their identities had been determined and investigations into any unlawful activities carried out, all the citizens were released. No information is available on the organization of activities at the above address by any human rights defence organization registered in accordance with the procedure established in the legislation of the Republic of Belarus.

(g) Under article 22 of the Constitution, all are equal before the law and have the right to equal defence of their rights and legal interests without any discrimination.

The Constitution provides for the life of the individual to be protected against any illegal infringements and for personal liberty, inviolability and dignity. Everyone is entitled to freedom of thought and belief and the free expression thereof.

The freedom to hold assemblies, rallies and marches and to engage in demonstrations and picketing that do not disrupt law and order or violate the rights of other citizens is guaranteed by the State. The procedure for conducting the above events is set out in law. The restriction of personal rights and liberties is permitted only in the instances specified in law, in the interests of national security or public order or to protect the morals and health of the population or the rights and liberties of others.

The rights and freedoms of citizens in the Republic of Belarus are specifically protected by a range of State agencies and institutions acting on the basis of the provisions of the Constitution and other legislation (the courts, the prosecution services, the bar, etc.).

In the legislation of Belarus, the term “human rights defender” and the relevant legal status are not defined. Consequently, no additional legal or institutional measures are taken in Belarus to ensure the safety of individuals engaged in defending human rights in a private capacity or as part of the activities of civil society organizations.

Nevertheless, based on the general principles of law, citizens of Belarus carrying out activities that they define as the defence of human rights enjoy the same rights to State protection as other citizens of Belarus. In the event that their actions contravene legislation (i.e. constitute an offence or crime), the fact that they are engaged in “human rights defence”, “journalism” or other civil society activity does not absolve them of the administrative responsibility established in law for violations of the procedure for organizing and conducting mass events.
